

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA)	NO. 4:15-CR-263-1
)	
)	
VS.)	Houston, Texas
)	2:14 p.m.
)	
ASHER ABID KHAN)	June 25, 2018

SENTENCING

BEFORE THE HONORABLE LYNN N. HUGHES

UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT:

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P R O C E E D I N G S

(Defendant present.)

THE COURT: United States of America vs. Asher
Abid Khan.

MR. HAMDANI: Good afternoon, Your Honor.
Alamdar Hamdani on behalf of the United States.

MS. FERKO: Good afternoon, Your Honor.
Carolyn Ferko on behalf of the United States.

MR. ADLER: David Adler on behalf of Mr. Khan,
who is also present in the courtroom, Your Honor.

THE COURT: Mr. Hamdani, are you going to speak
up from back there?

MR. HAMDANI: Yes, I will. I will make sure I
speak into the microphone.

THE COURT: Just move it. Slide it across the
table. You have a good voice, but it's a big room.

MR. HAMDANI: Is that better?

THE COURT: Much better.

MR. HAMDANI: Perfect.

THE COURT: Thank you.

MR. HAMDANI: Yes, sir.

THE COURT: Would you raise your right hand,
please, sir?

(Defendant sworn.)

THE DEFENDANT: Yes, sir.

1 THE COURT: The Court concurs in the joint
2 objection to the murder cross-reference.

3 I didn't see this datum. How much cash
4 was given to Garcia by you?

02:16:10

5 THE DEFENDANT: I don't remember the exact
6 number, but it was around 200 or \$300.

7 THE COURT: Two or 300?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: See if I remember this correctly.

02:17:02

10 It's the terrorism thing, the bump for terrorism but the
11 charge itself is terrorism, so you can't -- it is like in
12 the gun possession cases Ferko used to try, and she would
13 say, well, he is convicted of possession of a firearm, but
14 he used a firearm, and you can't do that.

02:17:29

15 MR. HAMDANI: Are you suggesting that it is
16 double counting, Judge, to apply the terrorism enhancement?

17 THE COURT: Yes, to a crime defined as
18 terrorism.

19 MR. HAMDANI: It is not. Courts have routinely
20 said --

02:17:40

21 THE COURT: Not this one. Just give me the
22 logic. Don't tell me what some other old people --

23 MR. HAMDANI: Sure.

24 THE COURT: -- with robes say.

02:17:47

25 MR. HAMDANI: So under the guidelines, there is

1 a bump, a terrorism enhancement of three and 1.4, if the
2 crime involves a federal crime of terrorism. Now, what
3 that means is so --

02:18:02

4 THE COURT: What federal terrorism statute
5 doesn't get an enhancement?

6 MR. HAMDANI: So, under 2332B(g) (5), it defines
7 what a federal crime of terrorism is.

8 THE COURT: And is that that three-page list of
9 everything under the sun?

02:18:17

10 MR. HAMDANI: That is right, but it doesn't
11 include for example 1001, but it does include 2339B, which
12 is what Mr. Khan pled guilty to. Under the guidelines,
13 then the second prong the United States must show is that
14 that particular crime, right, was in furtherance of -- just
15 to get the words straight, to influence or affect the
16 conduct of government. And that's, if you --

02:18:37

17 THE COURT: Wait, what terrorism crime doesn't
18 do that?

02:18:50

19 MR. HAMDANI: Some terrorism crimes may not do
20 that, Your Honor.

21 THE COURT: Like what?

22 MR. HAMDANI: I am not too sure. For example,
23 if -- I'll give you an example, Your Honor.

24 THE COURT: Okay.

02:18:57

25 MR. HAMDANI: A violation under 18 United

1 States Code, Section 2339A is one of those listed under the
2 2332B(g) (5) list of crimes. That is providing material
3 support to an organization that may engage in terrorism.
4 That organization may not be in the business of
5 influencing, or trying to coerce discovery. Another
6 example would be --

7 THE COURT: No, no, give me an example of
8 terrorism that does not expect to influence a government.

9 MR. HAMDANI: Right. So, if it involves a
10 crime of terrorism, so let's look at the list under 2332 --

11 THE COURT: Just give me --

12 MR. HAMDANI: Sure. Assume somebody wants to
13 hijack an airplane, which is one of those listed, 18 United
14 States Code, Section 32. That -- that hijacking of an
15 airplane may not be relating to coercing a government to do
16 X, Y or Z.

17 THE COURT: Of course, most airlines are
18 government sponsored or co-owned, so that is not a good
19 example. Try something else.

20 MR. HAMDANI: Sure, Your Honor.

21 THE COURT: And there is a specific statute
22 that addresses hijacking. So, if it were whether it was
23 motivated to prod a government or not, if you hijack an
24 airliner, it should be addressed as the airliner hijacking
25 statute, and you should be punished under that statute, not

1 then call it terrorism.

2 MR. HAMDANI: Well, Judge, under the guidelines
3 if, for example, you hijack that airplane for the purpose
4 of coercing a state to do something, then you would get the
02:20:38 5 bump; otherwise, you wouldn't get the bump.

6 So, Your Honor, there could be situations
7 but in this particular case --

8 THE COURT: What are you going to do?

9 MR. HAMDANI: In this particular --

02:20:45 10 THE COURT: If somebody hijacks something, are
11 you going to charge them with hijacking an airliner or are
12 you charging them with terrorism? Are you going to charge
13 them with hijacking, and then add the terrorism as a
14 sentencing enhancement?

02:20:57 15 MR. HAMDANI: The last choice if there is, for
16 example, coercion of a -- of a government --

17 THE COURT: Well, assume it's the government's
18 airplane and you ask for a million dollars.

19 MR. HAMDANI: Then you would add the terrorism
02:21:09 20 enhancement, exactly, under the guidelines.

21 So, Your Honor, on this case, it's -- the
22 two prongs are simple. The first prong is does it involve
23 a crime of terrorism? Which it does. The second prong
24 which --

02:21:21 25 THE COURT: That is not a prong.

1 MR. HAMDANI: -- deals with -- Your Honor,
2 under the --

3 THE COURT: It's the same -- look, the whole
4 idea of being a terrorist is you do something that we've
02:21:35 5 called terrorism, and we keep calling -- you know, the
6 State of Texas calls terroristic threat any hostile threat
7 you make over the phone. And they're not all terrorists.
8 Stupid, but not terrorists.

9 So, I just think that's piling on, as
02:22:07 10 reluctant as I am to use sports metaphors.

11 MR. HAMDANI: Your Honor, every circuit court
12 has applied the terrorism enhancement when the actual crime
13 does two things: Involves a crime of terrorism and
14 influences or coerces a government. If those two findings
02:22:26 15 are made --

16 THE COURT: Any government?

17 MR. HAMDANI: Any government.

18 THE COURT: So all of a sudden, the United
19 States is policing people who want to hurt other
02:22:37 20 governments?

21 MR. HAMDANI: If those people fall within the
22 jurisdiction of the United States, and they're using -- and
23 they are part of a terrorist organization, yes, Your Honor.
24 So in this particular case, you know, ISIS wants to form a
02:22:51 25 worldwide caliphate. What they want to do is form --

1 THE COURT: So do a lot of non-ISIS people.

2 MR. HAMDANI: That is correct.

3 THE COURT: Okay.

4 MR. HAMDANI: But ISIS, though, is a terrorist
02:23:02 5 organization that wants to coerce and influence
6 governments, so they subject themselves to the will of
7 ISIS. Those governments include, for example, Syria, Iraq,
8 Europe as well as the United States. It's been part of
9 their mission since it was formed, and was part of
02:23:18 10 al-Baghdadi's speech, the leader of ISIS.

11 THE COURT: Wait a minute. You're talking
12 about terrorists. This is not the American Bar Association
13 or something. Their targets change with rates of success
14 in some area and not some other. They have split in half
02:23:38 15 at least three times, right?

16 MR. HAMDANI: I don't --

17 THE COURT: Not in half, but anyway, they have
18 split.

19 MR. HAMDANI: One thing that is consistent
02:23:45 20 about ISIS: It believes in the worldwide caliphate, and
21 they believe in doing this by using brutal terroristic
22 means.

23 THE COURT: Okay. Don't keep using
24 "terroristic."

02:23:56 25 MR. HAMDANI: Sure, brutal. Brutal means. And

1 so, Your Honor --

2 THE COURT: I think they blow up, shoot, chop,
3 drown people in places.

4 MR. HAMDANI: Absolutely.

02:24:10

5 THE COURT: And then they made themselves
6 into -- or had made themselves into a formidable force
7 but --

8 MR. HAMDANI: They have.

02:24:19

9 THE COURT: But they're suffering some reverses
10 here lately. Some of which is by people who used to be
11 part of them.

12 Mr. Adler.

02:24:43

13 MR. ADLER: Well, I take issue with a number of
14 the government's positions: First of all, if the statute
15 is interpreted to mean that there is an attempt to
16 influence any government, then conceivably somebody who was
17 trying to do harm to the government of North Korea, or as
18 is in this case, the government of Syria, countries that
19 are at war, essentially, with us, they would still be --

02:25:01

20 THE COURT: Wouldn't that be all its leaders?

21 MR. ADLER: I'm sorry?

22 THE COURT: Wouldn't that be all of North Korea
23 leaders? They're the ones destroying the country.

02:25:11

24 MR. ADLER: And had the government's position
25 been in place and this law been in place in World War II,

1 then somebody who was fighting against Nazi Germany
2 conceivably would be trying to influence that government
3 and would be subject to a terrorism enhancement. You know,
4 that's --

02:25:22

5 THE COURT: Well, it is simpler. Transiting
6 Turkey to go join ISIS probably violated Turkish law. So,
7 were they trying to influence the government of Turkey,
8 too, by violating their laws, and sneaking through their
9 territory, and risking to get them in trouble?

02:25:39

10 MR. HAMDANI: Your Honor, in this particular
11 case, and I am going to focus the Court on this case. The
12 United States argues in its motions and responses as the
13 United States Government, that Mr. Khan is attempting to
14 influence when he recruits, educates, and finally delivers
15 Sixto Romero Garcia to ISIS as a fighter, when he himself
16 attempted to go to ISIS as a fighter. So it's the United
17 States Government, the United States argues in this
18 particular case, which is the influencing and the coercion
19 of a government that is at issue.

02:26:07

20 THE COURT: I take that he respectfully
21 declines to answer my question.

22 MR. ADLER: And, Judge, further, although I
23 believe the government is correct that circuit courts have
24 approved the enhancement, that doesn't mean that district
25 courts don't have the power to not apply it. That is a

02:26:19

1 decision that is left to this Court.

2 THE COURT: Last week I got unreversed by the
3 Supreme Court.

4 MR. ADLER: Must be nice.

02:26:30

5 THE COURT: I had held that you needed a search
6 warrant for cell towers, and a circuit court -- I don't
7 remember which one -- reversed me. It wasn't my case that
8 they took, but it was a parallel case.

02:26:44

9 MR. ADLER: So this Court has the discretion to
10 apply the enhancement when it thinks it's appropriate or to
11 not apply it when it thinks it is not appropriate.
12 Obviously, our argument from the defense side is it is not
13 appropriate in this case.

02:26:55

14 THE COURT: I think the government might
15 reluctantly concede that there are degrees of terrorism.

16 MR. HAMDANI: There are degrees of terrorism.
17 Could you further give me an example? Like somebody bombs
18 something as opposed to doing something else?

02:27:22

19 THE COURT: Well, or somebody does -- bombs a
20 school, and another person bombs an armory. One of those
21 strikes me as more reprehensible than the other.

22 I am going to let you guess which one.

02:27:43

23 MR. ADLER: And, Judge, I think there are
24 degrees. If you think back to some of the anti-war
25 protesters during the Vietnam era in this country, there

1 were people who threw blood on a military facility. That
2 would be considered a terrorism crime nowadays, but that is
3 different than killing someone, bombing someone.

4 THE COURT: They also burned some buildings.

02:27:57

5 MR. ADLER: And I am routinely faced, Judge, in
6 my practice with the federal government claiming that
7 someone who is selling counterfeit videos is somehow
8 supporting terrorism because the money is alleged to be
9 funneled back somewhere.

02:28:09

10 THE COURT: It's because there is more funding
11 from Congress when you say "terrorism."

12 MR. ADLER: So I think there are degrees of
13 terrorism.

14 MR. HAMDANI: Your Honor, I think there is --

02:28:20

15 THE COURT: Is that right? Is buying -- buying
16 oil from an ISIS-controlled well, is that terrorism?

17 MR. HAMDANI: Those facts -- I would have to
18 look at what those facts are. Your Honor, I would say this.

02:28:37

19 If you are supporting ISIS and you are buying items from
20 ISIS, then, yes, that would be material support to ISIS
21 from a financial standpoint. In this particular case --

22 THE COURT: Wait a minute. I don't -- I buy
23 stuff from all kinds of stores where I don't know who owns
24 them, don't care who owns them, and I certainly don't

02:28:51

25 support what I know to be the politics of many vendors. I

1 want the stuff.

2 MR. HAMDANI: The good thing about this case
3 is, Your Honor, Mr. Khan knew that he wanted to join ISIS.
4 And, in fact, when he recruited Mr. Garcia, he said, You
5 want to join ISIS. Do you want to go to Iraq or Syria? So
6 that is not an issue here.

7 THE COURT: Who asked the question?

8 MR. HAMDANI: Mr. Khan did, Your Honor. And
9 then Mr. Khan then proceeded to figure out the best place
10 to go to. And then after that --

11 THE COURT: I know what he did.

12 MR. HAMDANI: Yes, Your Honor.

13 THE COURT: You're describing a travel agent
14 now.

15 MR. HAMDANI: Your Honor, this -- if you want
16 to describe this travel agent, this travel agent also
17 delivered a fighter to ISIS. He recruited. So one thing
18 he did -- one thing my travel agent doesn't do is tell me,
19 for example, what ISIS is up to.

20 THE COURT: Wouldn't you want to know that?

21 MR. HAMDANI: Huh?

22 THE COURT: Wouldn't you want to know so you
23 could go some place else?

24 MR. HAMDANI: So what Mr. Khan did is Mr. Khan
25 provided Mr. Garcia with information about ISIS. Even

1 shared videos about Anwar al-Awlaki, who is -- was one of
2 the most renowned and notorious terrorists.

3 THE COURT: Why is it "was"?

02:30:05

4 MR. HAMDANI: He was killed, Your Honor, in
5 2011.

6 THE COURT: Oh.

02:30:16

7 MR. HAMDANI: So Mr. Khan, what he did is he
8 educated, recruited, and then delivered, more than just a
9 travel agent would do, to ISIS and he himself was going to
10 join them.

11 THE COURT: What did he deliver?

02:30:28

12 MR. HAMDANI: So Mr. Garcia finally made it to
13 ISIS in August of 2014. Prior to that, Mr. Khan met
14 Mr. Garcia at the airport in Turkey, as you know, gave him
15 cash, and because of a ruse came back to Houston. But
16 didn't stop there.

02:30:42

17 After he got back to Houston, he made sure
18 that Mr. Khan was able to meet up with a recruiter in
19 Turkey, Mr. Zuhbi. Up until that point the only person
20 talking to Mr. Zuhbi was Mr. Khan. Mr. Khan then made sure
21 Mr. Zuhbi met up with Mr. Garcia. Then Mr. Zuhbi then lead
22 Mr. Garcia down into Syria. Mr. Khan continued to
23 communicate with Mr. Garcia, encouraging him to go along.

24 THE COURT: And Garcia communicated with him.

02:30:59

25 MR. HAMDANI: Absolutely.

1 THE COURT: Okay. So, two people in the United
2 States were talking about going and joining ISIS.

3 MR. HAMDANI: Mr. Garcia is -- Mr. Khan was in
4 the United States. Mr. Garcia was in Syria at this point.
02:31:15 5 And Mr. Garcia was trying to make his way to ISIS. So just
6 to kind of back it up, Judge --

7 THE COURT: I thought Garcia was in Turkey.

8 MR. HAMDANI: Well, he went from Turkey to
9 Syria, thanks to the help of Mr. Zuhbi, and thanks to the
02:31:28 10 help of Mr. Khan. And then when he got --

11 THE COURT: No. Khan didn't have anything to
12 do with the peregrinations of Garcia after he caught a
13 flight back.

14 MR. HAMDANI: Actually, he continued to
02:31:43 15 encourage him.

16 THE COURT: Wait.

17 MR. HAMDANI: Well, actually, no, Your Honor,
18 he did. After --

19 THE COURT: He told them where to go.

02:31:49 20 MR. HAMDANI: After he caught a flight back, he
21 came back into Houston. When he got back to Houston,
22 Garcia said, I don't know anybody here. Mr. Khan then,
23 while he was back in Houston, made sure that Zuhbi got in
24 contact with Mr. Garcia so that Zuhbi could then take
02:32:06 25 Mr. Garcia to ISIS. So when he got back to Houston, he did

1 that.

2 In addition, he continued to communicate
3 with him, and even in July --

02:32:16

4 THE COURT: Wait. Communicating with him is
5 not a crime.

6 MR. HAMDANI: Continuing --

7 THE COURT: So be specific.

02:32:25

8 MR. HAMDANI: Sure. So when he communicated
9 with him, he said, I -- you should still try to get to
10 ISIS. I encourage you to get to ISIS.

02:32:42

11 In July of 2014, July 1st, two days after
12 Baghdadi announced the caliphate, the leader of ISIS,
13 Mr. Khan, still a big supporter of ISIS, made sure that
14 Garcia knew about that, and then shared that and shared the
15 speech of Baghdadi with others.

16 THE COURT: I'm sorry. You're talking about
17 sharing press releases and speeches. That cannot be
18 terrorism.

02:32:57

19 MR. HAMDANI: So, Your Honor, it's -- all of
20 it, it's all part of the -- his -- it is all part of the
21 provision of Mr. Garcia.

22 THE COURT: No. You're telling me
23 emphatically, indignantly, that this man who stands here
24 kept chatting with his friend about what was going on.

02:33:16

25 MR. HAMDANI: Before -- after he had already

1 helped him make sure he got his --

2 THE COURT: No, I know what he had already
3 done.

4 MR. HAMDANI: Okay.

02:33:21 5 THE COURT: But you can't pile everything that
6 happens after he makes a really awful choice --

7 MR. HAMDANI: Uh-huh.

8 THE COURT: -- and say it adds to it. No.
9 Those post-separation conversations do not say anything
02:33:35 10 that is actionable.

11 MR. HAMDANI: Beyond, of course, the provision
12 of Mr. Zuhbi to Mr. Garcia. That happened post-separation.
13 So post-separation he gets back and Mr. Garcia can't get to
14 ISIS without Mr. Zuhbi. It was Mr. Khan's doing and
02:33:50 15 introduction that said, here he is. Here is your guy. He
16 even told his friends -- he even told a friend of his, he
17 found the guy. Which was Mr. Zuhbi. And so that was while
18 he was back in separation -- back in Houston and
19 post-separation, Your Honor.

02:34:05 20 THE COURT: And that's simply carrying out what
21 they jointly intended to do before Khan abruptly abandoned
22 his friend in Turkey. Don't you agree?

23 MR. ADLER: Yes, Judge, I do agree.

24 I think what the government is omitting
02:34:24 25 from its discussion is that these were two 19-year-old

1 young men. If Mr. -- if Sixto, Mr. Garcia, was convinced
2 to do this by Mr. Khan, then the Court should also
3 recognize that Mr. Khan was convinced to do this by someone
4 else also.

02:34:41

5 You can't have one of these -- I mean no
6 offense to the memory of Mr. Garcia. I did not know him.
7 I know he was a friend of my client's, but I mean no insult
8 to him at all. But I think both of these gentlemen to some
9 degree were naive and stupid and foolish, and --

02:34:55

10 THE COURT: That is the starting point, and
11 they lose ground after that.

12 MR. ADLER: Correct, Your Honor. Correct, Your
13 Honor. But I don't think it is fair to paint Mr. Garcia as
14 a victim unless Mr. Khan is also -- I am not saying

02:35:07

15 Mr. Khan is a victim. These were 19-year-old men, young
16 men, who stupidly, naively thought this would be an
17 appropriate thing to do. And I --

18 THE COURT: They were bored, restless and
19 insignificant, with some testosterone.

02:35:24

20 MR. ADLER: And so I think when the
21 government --

22 THE COURT: Mr. Khan, don't get me wrong.
23 Those are very dangerous people. There are not a lot of
24 octogenarian Ph.D.s joining ISIS anywhere.

02:35:39

25 THE DEFENDANT: I understand that, Your Honor.

1 THE COURT: All right. I will not enhance this
2 crime, which is intrinsically terroristic by association to
3 a bunch of other things that are listed in that statute.

4 So I think that gets us to 23, 1.

02:36:09

5 MR. ADLER: Correct, Your Honor.

6 PROBATION OFFICER: That is correct, Your
7 Honor.

8 THE COURT: Which is 46 to 57 months.

02:36:23

9 MR. HAMDANI: Your Honor, there is also a
10 two-level enhancement under Section 2M5.3(b) (1) (E) which
11 the United States advocated for as well.

12 THE COURT: What is that?

02:36:39

13 MR. HAMDANI: That is -- it is a two-level
14 enhancement that says, if funds or other material support
15 or resources with the intent, knowledge or reason to
16 believe they are to be used to commit or assist in the
17 commission of a violent act, you're increased by two
18 levels. The United States had in its paperwork requested
19 that those two levels be added because there is different
20 types of material support. One of those was the provision
21 of Mr. Garcia to commit a violent act, so that would go up
22 to a 25, Your Honor, after the three-level adjustment.

02:36:54

23 THE COURT: Do you count the 300 bucks?

24 MR. HAMDANI: Your Honor, the --

02:37:13

25 THE COURT: Are you counting the 300 bucks?

1 MR. HAMDANI: No. What I am counting is the
2 provision of Mr. Garcia to ISIS.

3 THE COURT: Okay. He didn't provide Garcia.
4 He helped a friend.

02:37:22 5 MR. HAMDANI: Okay.

6 THE COURT: He didn't own him. It wasn't an
7 asset that he had. So, no, that is not provisioning.

8 MR. HAMDANI: Okay.

9 THE COURT: Overruled. All right. So with
02:37:39 10 that being the case, what does the government recommend?

11 MR. HAMDANI: Well, the United States would
12 recommend a 180-month sentence. If the Court is asking
13 within that guideline range, the United States would
14 recommend 57, but the United States would object to the
02:37:56 15 failure -- to the failure -- to the Court's decision not
16 to -- not to enhance it at 3A1.4.

17 THE COURT: I understand. Mr. Adler.

18 MR. ADLER: Thank you, Judge. So, as we stand
19 here now, the Mr. Khan that is here before you is
02:38:24 20 strikingly different from the Mr. Khan --

21 THE COURT: I just want to know the
22 calculations.

23 MR. ADLER: Oh, 46 to 57 months, Your Honor.

24 THE COURT: What do you recommend?

02:38:32 25 MR. ADLER: I would ask that you vary below

1 that 46 months, Your Honor.

2 MR. HAMDANI: Your Honor, may I respond to that
3 real quick?

02:38:40

4 THE COURT: Hang on just a minute. I will come
5 back to it.

6 MR. HAMDANI: Yes, sir.

7 THE COURT: Let's take a ten-minute recess.

8 THE CASE MANAGER: All rise.

9 (Proceedings recessed from 2:38 to 2:51.)

02:51:34

10 THE COURT: Thank you. Please be seated. I
11 believe he wanted to interrupt. Yes, sir.

12 MR. HAMDANI: Your Honor, I just wanted to get
13 the Court the 3553(a) factors that the United States would
14 consider and ask the Court to consider when determining
15 Mr. Khan's sentence.

02:52:02

16 So, as the Court knows, it must give a
17 sentence that is -- that adequately punishes Mr. Khan, but
18 also sufficiently deters. This is a case, Your Honor,
19 about somebody behind a computer recruiting and educating
20 somebody to finally go to ISIS. ISIS -- this is how ISIS
21 gets its fighters. It is people Mr. Khan's age behind
22 computers, using Facebook, using WhatsApp, using encryption
23 software to recruit.

02:52:23

24 THE COURT: Wait a minute. Don't make that --
25 that is how everybody talks. Everybody in this room uses

02:52:43

1 cell phones and computers and everything else. They read
2 books.

3 MR. HAMDANI: So -- and, Your Honor, that is
4 right. We all do that but not all of us are radicalized by
02:53:00 5 ISIS propaganda and not all of us will then seek to
6 radicalize others.

7 The United States would request that --

8 THE COURT: There are murders and crimes in
9 this country that are provoked by religious beliefs of all
02:53:14 10 kinds, and they are provoked by anger, and romance. They
11 are provoked by all kinds of things. That doesn't make
12 people who sit around and talk about their grievances with
13 people either conspirators or recruiters for anybody.

14 MR. HAMDANI: In this particular -- okay.

02:53:41 15 THE COURT: They are acting just like everybody
16 else in the United States. And they're some of -- I
17 suspect numbers runners recruit their people from social
18 media, although they might have to know more math than your
19 average person trolling the social media. That's where all
02:54:04 20 kinds of people get things.

21 MR. HAMDANI: What the United States would
22 request is that a sufficient sentence be given down such
23 that people like Mr. Khan, young men in their 20s, who are
24 disaffected, who are radicalized by ISIS, and who also want
02:54:18 25 to recruit others to go to ISIS, understand that when they

1 do that, and when they join ISIS, and when they get others
2 to join ISIS, that there is a sufficient penalty to pay for
3 that. That is why the United States requests a 180-month
4 sentence.

02:54:31

5 In addition to that, Your Honor, I just
6 want to make clear the United States, of course, objects to
7 the Court's decision not to apply 3A1.4, as well as the
8 Court's decision not to apply the enhancement under 2M3.5,
9 the United States requested. It makes that objection based

02:54:50

10 upon its arguments here as well as the arguments in its
11 paperwork.

12 THE COURT: Thank you.

13 MR. HAMDANI: Thank you, Your Honor.

14 MR. ADLER: Judge, as I was saying, Mr. Khan --

02:55:00

15 THE COURT: Speak up.

16 MR. ADLER: I'm sorry.

17 THE COURT: You can -- it's a new device.

18 MR. ADLER: As I was saying, Your Honor, the

19 Mr. Khan that stands before you today is a very, very

02:55:10

20 different man than the younger person who was 19 at the
21 time. He stupidly, naively and dangerously believed that
22 this was a smart thing to do.

23 I point out, or I remind the Court that

24 after Mr. Khan returned from overseas, 15 months went by

02:55:33

25 before this case was filed. Fifteen months under which --

1 during which he was under extreme surveillance by the
2 United States government, and he did not engage in any
3 violent activity. He left that world, essentially, behind.

4 THE COURT: What did he do?

02:55:51

5 MR. ADLER: When he came back? He can address
6 that himself, Your Honor, but he has started -- he embarked
7 on his college career.

8 THE COURT: Hopefully briefer than you will.

02:56:03

9 MR. ADLER: Not hard. He embarked on his
10 college career. He worked. He has been volunteering. He
11 has been doing every single thing we would want a young
12 person to do. And this is before he knew the government
13 was going to file a case on him. Fifteen months went by.
14 That is not a short period of time.

02:56:14

15 Once the case was filed, this Court saw
16 fit to allow him to remain on bond. Mr. Khan recognizes
17 that is extremely unusual in these kind of cases. And for
18 the three years that this case has been pending, he has
19 continued with those things: working, school,

02:56:29

20 volunteering.

21 He added to his activities after he came
22 back from overseas, volunteering to speak on the University
23 of Houston campus to people who might be thinking of doing
24 this same stupid dangerous thing. He has completely turned
25 his life around.

02:56:44

1 THE COURT: A guy in Milwaukee --

2 MR. HAMDANI: I'm sorry?

3 THE COURT: There is a guy in Milwaukee who
4 does that.

02:56:50

5 MR. ADLER: Correct. Who kind of deprograms
6 people. Mr. Khan has done his level best to follow that
7 path now. He tries to speak rationally and reasonably with
8 other students who suggest that this might be a smart move
9 or something that needs to be done. He explains the

02:57:07

10 dangers. Not just the dangers of the -- in the legal
11 community, the legal field, but he talks about -- Sixto
12 Garcia was a friend of Mr. Khan's and, again, I don't mean
13 any offense to Mr. Garcia's family, but these young men
14 were friends. This was not something Mr. Khan did with
15 malice. It was stupid. It was incredibly stupid.

02:57:24

16 And, again, with all due respect to
17 Mr. Sixto, Mr. Garcia, they both were naive and made poor
18 choices. The question now, though, for this Court is what
19 do we do with this man who has been on bond for three
20 years, who was here for 15 months, had completely turned
21 his life around? And what really -- what else could we ask
22 of this person to do?

02:57:42

23 I recognize the government is interested
24 in deterring others from going down this path. Mr. Khan
25 has the same goal as the government. But I'll argue as

02:58:00

1 Mr. Khan's lawyer that even 46 months is more than is
2 sufficient to send that message of deterrence.

3 I recognize it is a big request, Judge.
4 It is an unusual request. But I am going to ask this Court
02:58:16 5 to sentence him to a year and a day in prison. Mr. Khan
6 has learned the lesson that needs to be learned, and
7 sending him to prison for that period of time will send a
8 deterrent message.

9 I point out, Judge, that you have had
02:58:31 10 other cases of this nature, where the individual perhaps
11 hasn't shown an iota of effort to change his life and turn
12 his life around and move in a positive direction, and that
13 Mr. Khan did this. And, again, I point out at the risk of
14 repeating myself --

02:58:48 15 THE COURT: Do you remember how much -- have I
16 sentenced him?

17 MR. HAMDANI: You have.

18 THE COURT: What did I give him?

19 MR. HAMDANI: Sixteen years. But, again, that
02:58:58 20 was a very, very different man.

21 THE COURT: I have too much to remember them.

22 MR. ADLER: And so, essentially, taking a year
23 out of Mr. Khan's life will send a message that if you do
24 this, you will pay a price. A year is not an insubstantial
02:59:17 25 amount of time. But I do think the guideline range of 46

1 to 57 months is more than is necessary in this case. There
2 may be other cases when that range is appropriate. But
3 Mr. Khan is an unusual young man. He has made decisions
4 long before I got involved in the case, long before any
02:59:33 5 defense lawyer got in the case, he made decisions that this
6 Court really should consider. And I know he has been
7 anxious for probably three years now to speak to the Court
8 about what happened in his life, and how -- what lead him
9 to this point.

02:59:49 10 But I do -- and, again, I recognize it is
11 a big ask. It is unusual. I don't routinely stand in
12 front of courts and make this kind of substantial request
13 for variance, but I do think it is appropriate in this case
14 because this is a very unusual man. This is a very
03:00:04 15 different person than the person he was at 19.

16 THE COURT: Given the right breaks, most young
17 people -- we have been saying men. They are largely men.
18 But with the -- if you can get their attention and give
19 them some guidance, most of them will quit doing that
03:00:31 20 particular stupid thing.

21 MR. ADLER: And pick another one?

22 THE COURT: Yes. Always do.

23 MR. ADLER: Mr. Khan has not. Mr. Khan has
24 not. He has not picked another stupid thing to do, which I
03:00:44 25 think speaks volumes about him. And I also want to point

1 out, Judge, that his emotional attitude, his mental
2 attitude is quite -- is extremely different from where he
3 was mentally back at 19. He is not the disaffected young
4 man that he was back then. He has a much better support
5 system now.

03:01:00

6 I point out all of the people who have
7 taken time out of their day to come down and show support
8 for Mr. Khan to this Court, including his employer, who has
9 offered him a job. This -- really, Judge, this is a
10 horrible case for Mr. Garcia's family, for Mr. Khan's
11 family, for everybody involved, but I truly wish I had more
12 clients like Mr. Khan. This is an impressive young man who
13 made a terrible mistake, has pleaded guilty to it, knows he
14 has to pay for it. But I think a year and a day, given all
15 of the circumstances in this case, as unusual as that
16 request is, I think it is something the Court should
17 seriously consider.

03:01:12

03:01:29

18 As I said, I know Mr. Khan wants to speak.

19 THE COURT: All right, one more thing I need to
20 say formally. I have read Mr. Garcia's mother's letter to
21 the Court. It bears only on her grief, and not anything
22 that he did, or you did, or anybody else did. It's -- it's
23 sad, but not cogent. Did you see anything in there?

03:01:41

24 MR. HAMDANI: Your Honor, she lost her son as a
25 result of Mr. Khan's actions, so I do see that. And she

03:02:09

1 does mention that.

2 THE COURT: She lost her son.

3 MR. HAMDANI: She also mentions that it was
4 because of Mr. Khan.

03:02:20

5 THE COURT: I know. And I am not taking a
6 bereaved mother's description of causation. What she said
7 is, in essence, in two long pages, that she's very sorry
8 her boy is dead, if he is dead. He's gone. Whatever it
9 is.

03:02:41

10 All right. Mr. Khan.

11 THE DEFENDANT: Yes, Your Honor. I knew I
12 would get really nervous, so I wrote my thoughts down, if
13 you don't mind.

03:02:55

14 THE COURT: I don't mind. Or I'll read it and
15 file it if you prefer.

16 THE DEFENDANT: I think I can --

17 MR. ADLER: He wants to address them.

18 THE DEFENDANT: I got arrested about three
19 years ago, and 15 months after I had returned from Turkey.

03:03:05

20 While I was in Australia, the completely new environment
21 and the distance from family and friends was causing me to
22 be depressed. At the same time the atrocities carried out
23 by the Syrian dictator had intensified.

24 Every day scrolling through my Facebook I

03:03:21

25 would come across pictures of little children dead and

1 buried under the rubble. I was 19 years old at the time.
2 Over the course of a couple of months, I got very emotional
3 about this whole situation, and learned that everyone on
4 the ground opposing the Syrian dictator began to fight one
5 another because of something or another.

03:03:38

6 Through this vacuum, the propaganda poised
7 by ISIS became appealing. They opposed to the dictator
8 while calling for the concept of the caliphate. To me this
9 call was a means to end instability, hatred and division in
10 the Middle East. I genuinely thought that going there to
11 help would be a solution to the problems in the region.

03:03:57

12 I realize now how ridiculous and
13 completely naive of an idea that was. I told my friend
14 Sixto that I wanted to go there, and he immediately
15 expressed a desire to as well. However, shortly after I
16 had initiated my travel, I realized that I had made a very
17 impulsive and stupid decision.

03:04:11

18 Within ten minutes after the plane took
19 off from Australia, after coming across ISIS propaganda, I
20 wouldn't believe -- I wouldn't believe that all the
21 gruesome videos filmed by ISIS were real. I thought either
22 this was done by others on a green screen, or it was done
23 by other groups to try and smear ISIS.

03:04:28

24 It wasn't until after I had come back to
25 Houston and finally saw them claim responsibility for

03:04:42

1 multiple suicide bombings and other attacks that I realized
2 the reality of their nature, and I wish I hadn't been so
3 close-minded then.

03:05:00 4 Your Honor, with all due respect, I would
5 like to turn around and address the family of Sixto if you
6 wouldn't mind.

7 THE COURT: You may.

03:05:15 8 THE DEFENDANT: Sixto's family -- I cannot
9 imagine what you have gone through the past few years. I
10 am deeply sorry that things happened the way that they did,
11 and for whatever I may have done to facilitate it. Sixto
12 was my friend, and I miss him so much. I feel regret. I
13 feel regret every day, and this is something I have to live
14 with for the rest of my life.

03:05:31 15 We were both a victim of the same
16 propaganda, and I know I can't go back to change what has
17 happened. But I hope to do whatever I can to prevent
18 anyone else from making the same mistake. I hope you can
19 find it in your heart to forgive me.

03:05:46 20 Your Honor, I want to make it
21 unequivocally clear that I never condoned any act in which
22 innocent civilians or people from this country died. In
23 fact, I despise such acts. My anger and hatred was towards
24 the Syrian dictator. I considered this my country and I
03:06:04 25 considered myself an American.

1 It is true, Your Honor, that I expressed
2 discomfort in living here. I think it is because of my
3 lack of understanding with my parents at the time, and my
4 constant exposure to two different cultures that I was
03:06:18 5 expected to practice simultaneously. I was expected to
6 live up -- to live up to Pakistani culture when I was at
7 home and with relatives, and completely different culture
8 when I was at school and with my friends.

9 This lead me to be depressed and feel
03:06:32 10 alienated from both friends and family. I didn't know
11 where to go for answers or counseling and, unfortunately, I
12 turned to the Internet for answers.

13 None of this is a justification for what I
14 did. I did get caught into ISIS propaganda and I did
03:06:46 15 forward it to Sixto. While in Houston I realized the rash
16 decision I made, and I am so grateful to my parents for
17 doing whatever they could to try and my bring me back. I
18 feel regret every day because of that decision, and I
19 cannot find words to describe and express my regret,
03:07:01 20 remorse, and frustration at my decision. When I read my
21 old text messages, I can't believe how stupid and ignorant
22 I was. And my emotions took ahold of me, and I acted
23 impulsively.

24 I realize I cannot go back in time to undo
03:07:19 25 what I have done, and I only have the future to look at

1 from here. I plan to complete my engineering degree, join
2 the workforce, and resume my volunteer work. I look
3 forward to starting a family of my own and using my
4 experiences to counsel and mentor youth who feel alienated
03:07:37 5 and depressed and who may feel same -- who may be feeling
6 the same frustration that I felt about the atrocities of
7 the Syrian dictator, with the hope of preventing even one
8 person from making the same mistake I made.

9 Thank you, Your Honor, for giving me the
03:07:53 10 opportunity to speak and express my remorse.

11 THE COURT: Mr. Khan, do you see a flaw in the
12 logic that ISIS is going to impose a caliphate on everybody
13 to end disagreement? That's ending disagreement by kill
14 everybody who disagrees with you. That is hardly
03:08:17 15 persuasion.

16 Now, you know there's the Sunnis and
17 Shiite division in much of central Asia. You know, Europe
18 spent at least 30 years at a minimum at wars between
19 Protestants and Catholics, and then Protestants and
03:08:38 20 Protestants just to be ecumenical. But we have gotten
21 beyond that. To revert to anything that smacks of that
22 should be abhorrent. You have seen the blessings of
23 liberty.

24 THE DEFENDANT: Yes, Your Honor, I have.

03:08:57 25 THE COURT: And Assad, apparently, is not my

1 kind of ruler. But I am pretty certain that many of the
2 competing groups, I don't know that they would be any
3 better. They would be different in perspective, but very
4 much the same in process.

03:09:20

5 Impulses are not good ideas. Easy answers
6 are always wrong, always. There is no shortcut to
7 substance, respect; and honor doesn't involve killing
8 somebody.

03:10:03

9 All right. I find the guideline range is
10 23/16, 46 to 57 months.

03:11:01

11 Your crime was helping a friend do what
12 you were doing, not sending him anywhere, but two young men
13 decided they found a shortcut to fame and fortune. They
14 began their journey into virtual certain death and you
15 balked on hearing that your mother was ill and returned.
16 And, unfortunately, what you did do was a federal crime
17 with a properly ugly label.

03:11:44

18 I think I have gotten the dates -- the
19 time from his return from Turkey to his arrest was 17
20 months?

21 MR. HAMDANI: He came back in February of 2014,
22 was arrested in May, so be 15 months.

23 THE COURT: Fifteen.

24 MR. HAMDANI: Your Honor, real quick, just --

03:11:53

25 THE COURT: Yes, sir.

1 MR. HAMDANI: -- just to clarify the record.

2 He continued to text friends after he got back, telling
3 them to keep an open mind about ISIS. And in July, five
4 months after he returned, he even posted or shared

03:12:09

5 Baghdadi's speech, ISIS's leader's speech, with a friend,
6 and even a few days after he returned he was still
7 fundraising to Mr. Zuhbi. So, when he returned --

8 THE COURT: How much funds did he raise?

9 MR. HAMDANI: I have no idea, Your Honor. But

03:12:23

10 he posted something on Facebook about telling people to
11 support Mr. Zuhbi. So even after he returned, he was still
12 supportive of ISIS and proposed other people to be as well.
13 Thank you.

14 MR. ADLER: And, Judge, I didn't mean to state
03:12:37 15 or imply that the minute he got on the plane he changed his
16 mind; but once he was back, he began to realize the errors
17 of his ways, and began to mature, and recognize that there
18 are much better ways to live his life than what he had been
19 involved in. So I dispute what Mr. Hamdani is saying.

03:12:55

20 THE COURT: And one may speak favorably of ISIS
21 in this country. As you probably don't remember, but in
22 the other guy, the government kept wanting to talk about
23 the fact he had an ISIS flag in his closet. ISIS flags are
24 not illegal in this country. Even in Europe where they

03:13:17

25 outlawed any Nazi symbol that is being awfully --

1 MR. HAMDANI: I am not saying it is illegal,
2 Your Honor, I am saying it's an indicia of where his mind
3 was.

03:13:32

4 THE COURT: It's an indicia that his recovery
5 from adolescence was incomplete. Mr. Khan, what you were
6 proposing to do was go over and help a really awful group
7 of people. And no matter how nobly you construed getting
8 rid of Assad would have been, if you have to behead
9 civilians to get Assad, aren't you worse than Assad or
10 equal to him?

03:14:07

11 THE DEFENDANT: I completely realize that, Your
12 Honor. So, I -- I --

03:14:23

13 THE COURT: But, you know, burning people at
14 the stake in Massachusetts or the town square of Florence,
15 which gives you different sides of Christianity --
16 actually, they hanged all the women in Massachusetts --
17 that type behavior is not ethnically specific. It's
18 insanity. When you start believing press releases that are
19 unverifiable, regardless of which book they come from, or
20 which station they come from, the result is going to be
21 something bad.

03:14:51

03:15:17

22 Voltaire, who was very smart for a
23 Frenchman, said, "If we believe in absurdities, we will
24 commit atrocities." So the first step was you didn't think
25 through getting rid of Assad. And you didn't go out and

1 raise funds for relief organizations that were feeding the
2 people in the starving parts of Syria. You were looking
3 for that very elusive glory. There is no glory in doing
4 things wrong even if you do them very well.

03:16:00

5 Anything else you want to tell me?

6 THE DEFENDANT: When I think back -- or when I
7 try to think back of my thought process, all -- all that I
8 can think of is that I was completely blinded by -- by what
9 these people were putting out; and, honestly speaking, I

03:16:24

10 didn't even think of the steps to get to the goal of
11 getting rid of Assad. And as you mentioned, that is
12 insanity, and --

13 THE COURT: And when you see a picture on the
14 television of a baby lying under rubble, you have no idea
15 who put her there, do you? ISIS says, Assad did it. Assad
16 says that President Obama did it. President Obama says
17 somebody else did it.

03:16:38

18 It's near chaos, and even if -- there are
19 going to be collateral damage if there is armed conflict.
20 It's not an exact science. So even if Belgian and Canadian
21 Marines, two reasonably innocent groups of people, decided
22 to go get rid of Assad, it would be messy.

03:17:07

23 THE DEFENDANT: I understand that, Your Honor.

24 THE COURT: Terrorism in the more historic
25 sense, not necessarily a legalistic sense, has done awful

03:17:39

1 things to the United States and abroad. We had people
2 setting off bombs on Wall Street in 1920, I believe, 1919,
3 1920, killing a great number of people. I don't remember
4 when the Haymarket Riot in Chicago was, but the same thing.

03:18:15

5 And we have had some shootings in Fort Hood that seem to
6 have been related. We have had some shootings in
7 Arlington, Virginia which were not tied to anything, but
8 clearly there was some insanity going on.

03:18:42

9 Even if you're only one less person saying
10 it sounds like a good idea, that is a good thing. I don't
11 think we need to lock you up for 15 years, and I have been
12 pleased with your progress while you have been under
13 my care. You would be surprised that some people don't
14 take that as a hint.

03:19:11

15 Mr. Khan, I sentence you to 18 months in
16 the custody of the Attorney General, three years of
17 supervised release, no fine, no restitution, \$100 tax.

03:19:33

18 MR. HAMDANI: The United States would ask for a
19 lifetime supervised release, Your Honor, and reconsider the
20 three years.

21 MR. ADLER: For the record, Your Honor --

22 THE COURT: Are we triggered -- do we trigger
23 that?

24 MR. HAMDANI: We do, Your Honor.

03:19:51

25 MS. FERKO: We do, Your Honor.

1 THE COURT: Under which one?

2 MR. ADLER: Judge, I don't agree that a
3 lifetime of supervised release is triggered by any of the
4 statutes in this case.

03:20:23 5 MR. HAMDANI: I am looking.

6 MR. ADLER: And I don't believe it is warranted
7 either, but I don't -- certainly the PSR doesn't say it is
8 triggered.

9 THE COURT: No. We didn't pick it up.

03:20:33 10 MR. ADLER: It is page 16 of the PSR,
11 paragraphs 77 through 79.

12 THE COURT: I know. That's what I said. We
13 came up with the customary progression.

14 MR. ADLER: All of those paragraphs indicate up
03:20:46 15 to three years, Your Honor.

16 PROBATION OFFICER: Your Honor, I note the plea
17 agreement does indicate that the defendant can receive up
18 to life supervised release.

19 THE COURT: But that's a warning. That's
03:21:08 20 not -- I am happy -- would be happy to consider longer on
21 supervised release if I thought it was proper, technically
22 proper.

23 MR. HAMDANI: 3559A(3), Your Honor.

24 THE COURT: Pardon?

03:21:33 25 MR. HAMDANI: It's 18 USC 3559A(3) and 3583J.

1 THE COURT: What does it say?

2 MR. HAMDANI: Looking it up right now, Your
3 Honor. Thank you. "Supervised release terms for terrorism
4 predicates - notwithstanding Subsection (b), the authorized
03:21:52 5 term of supervised release for any offense listed under
6 Section 2332b(g) (5) (B)" -- which is that big long list --
7 "is any term of years or life."

8 MR. ADLER: So, I haven't looked at that,
9 Judge, but assuming Mr. Hamdani read it correctly, it means
03:22:07 10 the Court has discretion of imposing up to life.

11 MR. HAMDANI: Absolutely.

12 THE COURT: Oh, no, it doesn't mean life. It
13 means up to life.

14 MR. HAMDANI: Absolutely.

03:22:15 15 MS. FERKO: Right.

16 THE COURT: So I asked them -- assuming that is
17 right, it is hard to keep all these notwithstanding
18 anything in section... and overriding section, and all of
19 that. I do think that five years of supervised release
03:22:36 20 would be better for him.

21 MR. ADLER: No objection, Your Honor.

22 THE COURT: Do you have any questions?

23 THE DEFENDANT: No, Your Honor. Thank you.

24 THE CASE MANAGER: Is he going to pay the
03:22:50 25 supervised release?

1 THE COURT: Does the government move to remit
2 the --

3 MR. HAMDANI: The \$100?

4 THE COURT: -- \$100?

03:22:57

5 MR. HAMDANI: It does.

6 THE COURT: Thank you. It's a tax on being a
7 crook, and it costs more to collect the \$100 than we get,
8 when we seldom get it, for most people.

03:23:13

9 PROBATION OFFICER: Your Honor, for -- based on
10 this discussion, the probation office would ask to correct
11 the face sheet in paragraph 77 to reflect that up to life
12 supervised release was available.

13 MR. ADLER: No objection.

03:23:29

14 THE COURT: No objection from Mr. Khan, and
15 thank you.

16 You have the right to appeal. You have
17 the right to appeal without paying costs, and having a
18 lawyer appointed for you if you can't afford them.

03:23:53

19 And that's, of course, as the fine print
20 on the text says, whatever you said in the plea agreement
21 controls.

22 Did you understand it?

23 THE DEFENDANT: Yes, sir.

03:24:16

24 THE COURT: And I propose to let him remain on
25 bond.

1 MR. HAMDANI: United States requests the bond
2 be revoked and he immediately begin serving his time.

3 THE COURT: Well, the trouble is, we don't have
4 any place to put him for a moment. So in a couple of
03:24:28 5 weeks, or two -- anywhere, two to six weeks, we will have
6 some place. Have to go drive halfway to Dallas to find
7 some place to store him.

8 Do you have any questions, sir?

9 THE DEFENDANT: No, Your Honor.

03:24:47 10 THE COURT: All right. Well, it looks to me
11 like you have got potential. But in the '70s, people, not
12 grownup people, but people, started saying they needed to
13 find themselves. I never had any trouble with that. I am
14 right there. The trouble is what they want to do is make
03:25:11 15 something of themselves, and the "make" is work. You
16 figure out something responsible to make yourself into, and
17 then you go to work. It always won't be as rewarding as
18 you expected or there will be things that get in your way,
19 then keep thinking and keep working because there are no
03:25:35 20 shortcuts. There are no easy answers. Be careful what you
21 believe.

22 Any questions?

23 THE DEFENDANT: No. Thank you, Your Honor.

24 MR. HAMDANI: Judge, real quick before we go, a
03:25:49 25 housekeeping matter.

1 THE COURT: Yes.

2 MR. HAMDANI: We have under the plea agreement,
3 the United States moves to --

4 THE COURT: Does what?

03:25:56

5 MR. HAMDANI: Under the plea agreement, the
6 United States moves to dismiss the remaining counts only
7 against Mr. Khan, as he pled guilty to Count 6. As to the
8 remaining counts against Mr. Khan, the United States would
9 move to dismiss it pursuant to the plea agreement.

03:26:11

10 THE COURT: All right. Mr. Hamdani, do we have
11 a co-defendant yet?

12 MR. HAMDANI: He is still at large.

13 THE COURT: Does it have to remain on my
14 docket?

03:26:22

15 THE CASE MANAGER: It will remain on your
16 docket, but what I did is terminated the motion, then
17 dismiss it without prejudice as to refileing. So when we do
18 get him, then they will refile the motions because there
19 were pending motions.

03:26:37

20 THE COURT: Oh, all the pending motions other
21 than as they apply to him have been terminated without
22 prejudice.

23 MR. HAMDANI: That is right, Your Honor. Yeah.

03:26:49

24 THE COURT: Otherwise, once a month I get to
25 look at them.

1 MR. HAMDANI: Don't have to.

2 THE COURT: All right. Anything else, anybody?

3 MR. ADLER: No, Your Honor.

4 MR. HAMDANI: Nothing further from the United

03:26:59

5 States.

6 THE COURT: Work hard; fly right. Got it?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: We're adjourned.

9 (Recessed at 3:26 p.m.)

10 COURT REPORTER'S CERTIFICATE

11

12 I, Kathleen K. Miller, certify that the foregoing is a
13 correct transcript from the record of proceedings in the
14 above-entitled matter.

15

16 DATE: July 5, 2018 /s/ Kathleen K. Miller, RPR, RMR, CRR
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